

Message Text

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PAGE 01 STATE 040166

62

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FM SECSTATE WASHDC

TO AMEMBASSY MADRID

C O N F I D E N T I A L STATE 040166

E.O. 11652: GDS

TAGS: MARR, MILI, SP

SUBJECT:G-3 TARIFF

1. U.S. NEGOTIATING TEAM MET YESTERDAY TO REVIEW U.S. POSITION AND DISCUSS NEGOTIATION STRATEGY. FROM THE SEVERAL EXCHANGES OF MEMORANDA IT IS APPARENT THAT EACH SIDE IS COMMITTED TO ITS LEGAL POSITION. HOWEVER, HACIENDA' MEMORANDUM OF APRIL 29, 1975 AND THE JUSMAAG (STAFF JUDGE ADVOCATE) ANALYSIS OF IT SEEM TO CONTAIN HELPFUL SOURCES FOR DEVELOPMENT OF THE INNOVATIVE APPROACH WHICH TEAM IS SEEKING. USG HAS IN PAST BEEN UNABLE PERSUADE GOS THAT THE 1953 AGREEMENT BROAD ENOUGH TO COVER THE G-3 CHARGE. OUR POSITION IS THAT IT EXEMPTS NOT ONLY FROM TAXES, SURCHARGES AND CONTRIBUTIONS, BUT FROM "OTHER CHARGES OF ANY NATURE, CONFIDENTIAL

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PAGE 02 STATE 040166

OTHER THAN REASONABLE COMPENSATION...FOR SERVICES REQUESTED

AND RECEIVED". MOREOVER, SUCH EXEMPTION EXTENDS TO CHARGES OF EVEN "QUASI-GOVERNMENTAL ORGANIZATIONS," WHICH GOS HAS VIRTUALLY CONCEDED PORT AUTHORITIES TO BE (HACIENDA'S MEMO OF MAY 29, 1974).

2. THE PAST ARGUMENTATION HAS DWELT ON DEFINITIONAL ASPECTS WHICH SEEMS POINTLESS IN VIEW OF THE BROAD LANGUAGE OF THE 1953 AGREEMENT. FOR EXAMPLE, THE MOST RECENT GOS MEMORANDUM REWORKS THE "TASAS" - "TRIBUTOS"

DRILL WITHOUT MEETING THE ULTIMATE ISSUE OF WHETHER THE CONTESTED CHARGE FALLS IN THE ONLY CATEGORY FOR NON-EXEMPTION; TO WIT: A CHARGE FOR SERVICES REQUESTED AND RECEIVED. GOS HAS NEVER DETAILED THE NATURE OF THE SERVICES REQUESTED AND RECEIVED IN THIS CHARGE AND U.S. TEAM WILL BE PREPARED TO ANALYZE THIS MATTER WITH GOS TEAM TO EXPLORE ANY FEASIBLE GROUND FOR COMPROMISE. IN FAIRNESS, WE ALSO HAVE CLUNG TOO TENACIOUSLY TO THE "TASAS" - "TRIBUTOS" ARGUMENT AND THE SJA IDEA OF MOVING OUR POSITION OFF THE TAX DEBATE AND ONTO THE "CHARGE" TACK SEEMS APPROPRIATE. THIS MAY NARROW THE ISSUE SUFFICIENTLY TO PERMIT COMPROMISE.

3. U.S. TEAM (HAVING REPRESENTATIVES OF STATE, DEFENSE AND TREASURY, AS WELL AS THE OPERATING AGENCIES OF DOD (MSC AND USAF) FEELS THAT GOS SHOULD HAVE A SIMILARLY REPRESENTATIVE TEAM IF PROGRESS IS TO BE MADE IN FORTHCOMING ROUND. IN THE LAST SESSION GOS TEAM CONSISTED ONLY OF ACIENDA OFFICIALS AND A PROTOCOL FUNCTIONARY IN MFA. IT WOULD BE HELPFUL TO HAVE SUBSTANTIVE REPRESENTATION ON SPANISH SIDE FROM MINISTRIES OF DEFENSE, FOREIGN AFFAIRS AND FINANCE. REALIZING, OF COURSE, THAT THIS IS A SOVEREIGN DECISION OF GOS, WE CAN ONLY HOPE THAT EMBASSY CAN GAIN GOS COOPERATION IN FIELDING A REPRESENTATIVE TEAM.

4. TREASURY REPRESENTATIVES' PREFERENCE FOR SECOND WEEK IN MARCH NO LONGER OPERATIVE AND TEAM IS PREPARED AND ANXIOUS TO MOVE ASAP. SPANISH SHOULD NOT BE ALLOWED TO PROTRACT THIS MATTER AS IT WILL CONTINUE TO BE AN IRRI-CONFIDENTIAL

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PAGE 03 STATE 040166

TANT UNTIL RESOLVED. USG TEAM HOPES TO MEET GOS IN SPIRIT OF COOPERATION AND HIGH RESOLVE TO SETTLE THIS TROUBLESOME ISSUE ON THIS TRIP. INGERSOLL

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